**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.22310 of 1998

Dated: 28.11.2007

Between:

Satoor Bukkodu.

**..... PETITIONER**

AND

The Government of Andhra Pradesh,
rep. By its Secretary, Hyderabad, and others.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.22310 of 1998

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in filling up the breach of the bund of "Thore" tank at Havarga Village, Lohesra Mandal, Adilabad District, resulting in submergence of the petitioner's land admeasuring Acs.15.00 in survey No.209/1 (subject land) situated at said village, as arbitrary and illegal, and for a consequential direction to the respondents to acquire subject land under the provisions of the Land Acquisition Act, 1894 (the Act, for brevity). The petitioner also seeks a direction for payment of compensation.

The petitioner's father – Satoor Bhuma, was assigned subject land in 1355 Fasli. In 1953, the District Collector directed cancellation of patta and accordingly orders were passed. In 1964 again the District Collector granted patta to the petitioner's father. The petitioner alleges that in fact he continued to be in possession. Mutation was also effected in favour of the petitioner's father. Again in 1970, the District Collector passed orders cancelling the patta. The petitioner herein along with another filed W.P.No.1056 of 1971 challenging the cancellation. By order dated 12.04.1972, said writ petition was allowed and liberty was reserved to the District Collector and the Tahsildar to proceed in the matter according to law.

The petitioner alleges that no proceedings were initiated thereafter and the petitioner continued to be in enjoyment of subject land. In 1997-1998 it appears that the Government initiated action under 'Janma Bhoomi' programme to repair the breaches of the tank. In that connection, subject land was utilized for filling the breaches of 'Thore' tank. It is the case of the petitioner that subject land was not acquired as per the Act and crops were damaged, as a result of which subject land got submerged. Therefore, instant writ petition is filed.

Fourth respondent filed a counter-affidavit. The assignment of subject land to the petitioner's father – Satoor Bhuma, cancellation of the assignment and the orders of this Court dated 12.04.1972 in W.P.No.1056 of 1971 are not denied. It is, however, stated that in obedience to the orders of this Court in W.P.No.1056 of 1971, action was initiated and while exercising the formalities the Joint Collector, Adilabad, issued proceedings No.B1/3767/84 dated 17.04.1985 cancelling the assignment made to the father of the petitioner. It is also alleged that the petitioner is not residing in the Village nor is cultivating subject land and that as directed by the Joint Collector, subject land was taken into custody. It is also alleged that the original assignee or the petitioner never cultivated subject land and that subject land was

cultivated by Sri G.Rama Chandra Reddy, resident of Nirmal, who is the father of the General Power of Attorney Holder of the petitioner, who filed the affidavit accompanying this writ petition.

The learned counsel for the petitioner strenuously contends that the allegation that the assignment was cancelled is not correct and no notice was issued to the petitioner before cancelling the assignment. He also submits that the petitioner is very much residing in the Village and cultivating subject land and therefore, the cancellation without notice is void. **Per contra** the learned Assistant Government Pleader for Revenue contends that the petitioner is not residing in the Village and when the notice was sent by the Joint Collector, a report was sent by the Tahsildar to the effect that the petitioner is not resident of Havarga Village.

As directed by this Court, the learned Assistant Government Pleader has placed before this Court, the record pertaining to the cancellation of the assignment in favour of the petitioner/his predecessor. The proceedings of the Joint Collector dated 17.04.1985 are found at page 23 of the file. It was preceded by a notice issued by the Joint Collector and the report dated 03.02.1985 sent by the Tahsildar to the effect that the petitioner is not residing in Havarga Village. Be that as it is, a perusal of the file would show that the Joint Collector followed the procedure before cancelling the assignment. Secondly when the petitioner was not residing in the Village, it was always possible to draw an inference that he is not cultivating subject land. Thirdly in the cause title of the writ petition, the petitioner is described as resident of Lingampally Village whereas subject land is situated at Havarga Village. This itself would falsify the case of the petitioner that he is the resident of Havarga Village. When once the assignment is cancelled, the question of payment of compensation does not arise.

The writ petition is misconceived and the same is accordingly dismissed. No order as to costs.

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(**V.V.S.RAO, J**)

28th November, 2007
ghn